



**STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS**

DRAFT

Date Amended:	07/11/05	Bill No:	SB 457
Tax:	Property	Author:	Kehoe
Related Bills:	AB 18 (La Malfa) AB 164 (Nava)		

BILL SUMMARY

This bill would, in part, allow persons whose homes were damaged or destroyed in the severe rainstorms, floods and mudslides in Southern California in the months of January and March of 2005 to retain the homeowners' exemption while they are in the process of rebuilding.

Summary of Amendments

The July 11 amendment adds the homeowners' exemption provisions to this bill. The disasters covered by this bill are currently included in other bills: AB 18 (La Malfa) and AB 164 (Nava).

This analysis is limited to the homeowners' exemption portion of this bill.

ANALYSIS

Current Law

Article XIII, Section 3(k) of the California Constitution exempts from property tax the first \$7,000 of the full value of a dwelling when occupied by an owner as his or her principal residence. This exemption is commonly referred to as the "homeowners' exemption."

Section 218 of the Revenue and Taxation Code details the qualifications for the homeowners' exemption authorized by the constitution. Eligibility is generally continuous once granted. However, if a property is no longer owner-occupied or becomes vacant or is under construction on the lien date (January 1), the property is ineligible for the exemption for the upcoming tax year.

Relevant to this bill, homes that are totally destroyed on January 1, 2005 are not eligible for the homeowners' exemption on the property tax bill for the upcoming fiscal year (2005-06). A home destroyed after January 1, 2005, would continue to be eligible for the exemption on the 2005-06 property tax bill. However if the home has not been rebuilt and occupied by the next lien date, January 1, 2006, it would not be eligible for the homeowners' exemption on the 2006-07 property tax bill.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.

Proposed Law

This bill would, in part, amend Section 218 of the Revenue and Taxation Code to provide that dwellings qualified for the homeowners' exemption prior to December 28, 2004 and that were damaged or destroyed by severe rainstorms, floods, mudslides or the accumulation of debris in the disaster declared by the Governor during January and March of 2005 will not be disqualified as a "dwelling." Consequently, these homes will not be denied the homeowners' exemption solely on the basis that the dwelling was temporarily damaged, destroyed or being reconstructed by the owner, or temporarily uninhabitable as a result of restricted access to the property due to floods, mudslides, the accumulation of debris, or washed out and damaged roads.

Background

For some prior disaster situations, legislation has been enacted to extend the homeowners' exemption to temporarily damaged or destroyed homes.

Disaster	Year	Legislation
San Joaquin levee break	2004	Stats. 2004, Ch. 792 (SB 1147)
San Simeon earthquake	2003	Stats. 2004, Ch. 792 (SB 1147)
Southern California wildfires	2003	Stats. 2004, Ch. 792 (SB 1147)
Oakland/Berkeley Hills fire	1992	Stats. 1992, Ch. 1180 (SB 1639)
Los Angeles civil riots	1991	Stats. 1992, Ch. 17X (AB 38 X)

COMMENTS

1. **Sponsor and Purpose.** With respect to the homeowners' exemption portion of the bill, the author is sponsoring this measure to provide some financial relief to persons whose homes were damaged or destroyed in the severe winter storms and mudslides.
2. **Key Amendments.** The **July 11** amendment adds the provisions related to Section 218. These disasters are also covered by AB 18 (La Malfa) and AB 164 (Nava).
3. **This bill would allow homeowners whose residences were damaged or destroyed as a result of the winter storms and mudslides to retain the exemption on their property while they are in the process of rebuilding their homes.** Homes that are uninhabitable on the lien date (January 1, 2005) are technically ineligible for the exemption for the upcoming fiscal year under current law. Last year legislation was introduced to extend the homeowners' exemption to homes destroyed in the Southern California fires where thousands of homes were totally destroyed in October and November of 2004 and could not have been rebuilt and occupied by January 1, 2005 – just a few months later. This bill was later amended to include two other governor-declared disasters.

4. **Homeowners' Exemption – Disaster Impact.** The Board staff has opined that a temporary absence from a dwelling because of a natural disaster, such as a flood or fire, will not result in the loss of the homeowners' exemption for those properties temporarily vacated for repairs. However, when a dwelling has been totally destroyed, staff has opined that because no dwelling exists there is no occupancy or possibility of occupancy on the lien date and the property would not be eligible for the exemption even if the property was under construction. (See Property Tax Annotation 505.0019 "Homeowners' Exemption – Disaster Impact" available at www.boe.ca.gov)
5. **Affected counties.** On January 12, 2005, the Governor proclaimed the County of Ventura to be in a state of emergency as a result of a series of severe rainstorms in that area that commenced on January 6, 2005. Subsequently, on January 15, 2005, the Governor additionally proclaimed the Counties of Riverside, Santa Barbara, Los Angeles, Kern, San Bernardino, Orange and San Diego to be in a state of emergency as a result of storms that began on December 28, 2004. On February 4, 2005, the President declared a major disaster for California. After the declaration, residents and businesses in the counties of Los Angeles and Ventura that suffered damages and losses may be eligible for federal aid.
6. **Most of the damage took place after January 1.** In this particular instance, it appears that homes were not damaged and destroyed until *after* the lien date. Consequently, it appears that these property owners will not lose the homeowners' exemption on their property tax bill for the 2005-06 fiscal year. However, this bill would apply to any home that was not rebuilt and occupied by the next lien date – i.e., January 1, 2006, for the 2006-07 fiscal year.
7. **Chaptering Out Potential - Double-Joining Provisions Needed.** AB 18 (La Malfa) and AB 164 (Nava) also amend Section 218. However, this bill is more limited than either of these bills because it does not include the Shasta County Fire of August 2004 nor does it include the months of February and June of 2005 for the Southern California severe storms, floods, and mudslides. Double joining language is needed to prevent chaptering out problems in the event either of those bills are enacted.

COST ESTIMATE

With respect to administration, the Board would incur insignificant costs in informing and advising local county assessors, the public, and staff of the law changes. These costs are estimated to be under \$10,000.

REVENUE ESTIMATE

The revenue estimate is limited to the homeowners' exemption portion of this bill.

Background, Methodology, and Assumptions

Existing property tax law provides for a homeowners' property tax exemption in the amount of \$7,000 of the full value of a "dwelling," as defined. This bill would provide that any dwelling that qualified for the exemption prior to December 28, 2004 that was damaged or destroyed as a result of the severe storms may not be denied the

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exemption solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner.

Based on information from the Office of Emergency Services, we estimate that no more than 44 homes were totally destroyed as a result of the winter storms as noted below. This bill would have no revenue impact for the 2005-06 fiscal year since these homes were not destroyed until after the lien date. If all of these homes are not rebuilt and occupied by the next lien date, January 1, 2006, then the revenue loss for the 2006-07 fiscal year would be approximately \$3,400.

County	Destroyed Homes	Exemption	Exempt (# x \$7,000)	County Average Tax Rate	2005-06	2006-07 Continued Subvention
Kern	0	N/A				0
Los Angeles	14	\$7,000	\$98,000	1.091%	No Impact*	\$1,069
Orange	2	\$7,000	\$14,000	1.038%	No Impact	\$ 146
Riverside	1	\$7,000	\$ 7,000	1.096%	No Impact	\$ 77
San Bernardino	8	\$7,000	\$56,000	1.106%	No Impact	\$ 619
San Diego	1	\$7,000	\$ 7,000	1.067%	No Impact	\$ 75
Santa Barbara	0	N/A				0
Ventura	18	\$7,000	\$126,000	1.088%	No Impact	\$1,371
Totals	44		\$308,000			\$3,357

*Disaster Damage is post lien date – property retains exemption for 2005-06 fiscal year under existing administration of the homeowners' exemption.

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